

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 10
OF THE CITY CODE, ZONING ORDINANCE**

WHEREAS, the current zoning ordinance, contained in Title 10 of City Code, largely dates to the early 1970's and is structured to implement the vision contained in the 1968 Comprehensive Plan. In September of 2013 a new Comprehensive Plan was adopted. Rewriting the zoning ordinance is the most important step in implementing the vision of the new Comprehensive Plan, with the new Comprehensive Plan becoming the basis of a revised Zoning Ordinance; and

WHEREAS, because of the scope of rewriting an entire zoning ordinance, the project will be broken into several pieces. The first set of proposed changes will deal with chapters regulating parking, garage and accessory buildings, fences, cell towers, animals in residential areas, and sight triangle regulations. In addition to these major proposed changes, there is also formatting changes and minor updating being proposed for the rest of Title 10; and

WHEREAS, the Planning and Zoning Commission on February 14, 2017 voted to recommend the approval of revisions to Title 10, Zoning Ordinance; and

WHEREAS, a public hearing on March 2, 2017 was conducted by the City Council of Muscatine prior to the adoption of this ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:

SECTION 1. The currently adopted versions of Title Ten of the City Code are hereby deleted and **Exhibit A** as attached hereto is adopted in lieu thereof. The entire City Code is available in the City Clerk's Office or online at www.muscatineiowa.gov.

SECTION 2. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 4. This ordinance shall be in effect from and after the passage, approval, and publication of this ordinance, as provided by law

PASSED, APPROVED AND ADOPTED this 6th day of April, 2017.

**By the City Council of the City of
Muscatine, Iowa**

Diana L. Broderson, Mayor

ATTEST:

Gregg Mandsager, City Administrator

First Reading: March 2, 2017

Second Reading: March 16, 2017

Third Reading: April 6, 2017

Publication: _____

EXHIBIT A

Following is a summary of the changes made by this ordinance to Title 10 of City Code. Full text of Title 10 can be found in the City Clerk's Office or online at www.muscatineiowa.gov.

The current zoning ordinance, contained in Title 10 of City Code, largely dates to early the 1970's, and is structured to implement the vision contained in the 1968 Comprehensive Plan. In September of 2013 a new Comprehensive Plan was adopted. Rewriting the Zoning Ordinance was the most important step in implementing the vision of the new Comprehensive Plan, with the new Comprehensive Plan becoming the basis of a revised Zoning Ordinance.

The revised Zoning Ordinance has sufficient flexibility to be adapted to unique and difficult site conditions and to preserve the unique character of individual neighborhoods. The Zoning Ordinance has also been made more user-friendly through the use of illustrations. Because of the scope of rewriting an entire Zoning Ordinance, the project has been broken into several phases. The first phase deals with regulations covering parking, garage and accessory buildings, fences, cell towers, animals in residential areas, and sight triangle regulations. In addition to these major changes, there have been formatting changes and minor updating in the rest of Title 10. Later in 2017, additional revisions to other portions of the Zoning Ordinance will be brought forward.

Following is an overview of changes.

Formatting and Minor Updating

This revision to the Zoning Ordinance created single topic chapters. Each single topic chapter will contain all relevant regulations relating to the topic covered by the chapter. This is a significant change from the previous format of the current Zoning Ordinance.

This revision also contains minor updating to referenced job titles and department/organizational names throughout Title 10. Many referenced job titles and department/organizational names were obsolete and were updated to reflect the current name. For example, references to the Building and Zoning Department were changed to correctly reference the Community Development Department.

Chapter 10-20: Garage, Accessory Building, & Accessory Uses

Changes have been made to the regulations relating to the maximum size for accessory buildings in residential areas and a change to allow for more setback flexibility for accessory buildings as they relate to alleys.

Previous regulations had a cumulative maximum size limit for garages and accessory buildings of 1,440 square feet for all parcels in a residential district. Under the new regulations for parcels smaller than 20,000 square feet, the maximum cumulative size for garages and other accessory buildings will remain at 1,440 square feet. For parcels of at least 20,000 square feet the maximum cumulative size for garages and other accessory buildings will be 2,500 square feet or 7.2% of the total parcel size, whichever is less.

The revised regulations will permit an accessory building to be constructed in the required rear yard setback when the following conditions are met:

- The rear yard abuts an alley.
- 50% of parcels on the block and located on the same side of the alley as the subject parcel, contain an existing accessory building within the required rear yard setback.
- Any new accessory building that is constructed within the rear yard setback is it shall not be located nearer to the alley right-of-way than the average distance to alley right-of-way of the nearest two accessory buildings located on the same side of the alley as the subject parcel.

Chapter 10-21: Fence Regulations

The revised fencing regulations will strike a better balance between the competing needs of safety and aesthetic needs of the community as a whole, with the need to give residents the ability to create a more private outdoor space by increasing fencing and screening options for parcels with more than one street frontage. Regulations for lots with just one street frontage were not revised. For the purpose of regulating fences, the new regulations no longer treat all yards that abut a street as front yards. For parcels with multiple street frontages a single front yard would be defined and the other yards abutting streets would be defined as "street side yards" or "street rear yards".

Fencing regulations for front yards are the same for all lots, regardless of the number of streets that they front, and are unchanged for fencing in front yards, as would regulations for side and rear yards not abutting a street.

The revision change the maximum height for fencing in street side yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street side yards:

Distance from property line

- Within 6 feet of the property line: 3 feet
- Between 6 feet and 25 feet of the property (or the distance to the building line, whichever is less): 4.5 feet
- Beyond 25 feet from the property or the distance to the building line (whichever is less): 6 feet

The revisions change the maximum height for fencing in street rear yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street rear yards:

Distance from property line

- Within 6 feet of the property line: 3 feet
- Beyond 25 feet from the property or the distance to the building line (whichever is less): 6 feet

The revised regulations also prohibit the construction of any fence within two feet of any public sidewalk.

In July of 2015 the City of Muscatine adopted the International Residential Code, 2015 Edition. This building code contains very detailed requirements for pool fencing. The revised regulations will bring the pool fencing standards in the Zoning Ordinance in sync with the pool fencing regulations found in the adopted residential building code.

Chapter 10-27: Off-Street Parking & Loading Regulations

In the revised Zoning Ordinance, all regulations regarding off-street parking have been consolidated in a single chapter. The revision makes use of tables and illustrations in order to more clearly explain regulations.

Regulations establishing the minimum number of off-street parking spaces are contained in Section 2 and Section 3. Section 2 sets the minimum number of off-street parking spaces required by specific land use type. Section 3 contains a process by which an applicant can request that the number of required off-street parking spaces be reduced based on special characteristics of the customer, client, user, employee or resident population reducing expected vehicle use and parking space demand for this development, as compared to off-street parking space requirements contained in Section 2.

Section 2 regulates the minimum number of required off-street parking based on the type of land use. This is the same manner in which required off-street parking is currently regulated. However, three significant changes were made, the centralization of these requirements in a single section, a reduction in the amount of parking required for most land uses, and the establishment of more land use categories. The previous regulations regarding off-street parking contained 16 broadly defined land use categories. The revised regulations contained in Section 2, are based on 34 more narrowly defined land use categories.

To achieve the goal of not requiring more off street parking spaces than is necessary, Section 3 was created. Section 3 allows for the Site Plan Review Committee to reduce the number of required off street parking by up to 50% when it can be demonstrated

that the use of alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, user, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to off-street parking space requirements contained in Section 2, and such a reduction in the number of required off-street parking spaces will not adversely impact the surrounding area. Section 3 also deliberately notes that costs associated with providing the required off-street parking spaces shall not be used as justification for a reduction in the number of required off-street parking spaces.

Section 4 of the revised regulations deals with handicap accessible parking lot regulation. The regulations and standards come from the Americans with Disabilities Act.

Section 5 contains requirements for off-street loading spaces. As with regulations regarding off street parking spaces, regulations regarding off-street loading were centralized into one section; updated to reflect a review of recently published research and of other communities that have recently revised their off-street loading space requirements; and includes a mechanism by which the Site Plan Review Committee can reduce the required number of off-street loading spaces in appropriate situations

Section 6 permits the shared use of required parking spaces in certain situations. For example, if a parking lot is used in connection with an office building Monday through Friday, but is 90% vacant on the weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Similarly, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church's spaces on those other days. Allowing for this will help reduce the amount of the community that is taken up with parking lots.

Section 8 contains improvement and maintenance standards for parking lots. Nearly all of this section is unchanged from the standards in the current regulations. The only change was to add specificity to the type of paving that is required for parking lots.

Section 9 specifies the minimum dimensions for off-street parking spaces, changing the minimum size of 9 feet by 20 to 9.5 feet by 18 feet. Section 10 contains standards specifying the minimum width of parking aisles.

Sections 11 & 12 contain landscaping standards for parking lot stormwater management. The landscaping requirements contained in these sections are intended to maximize the natural infiltration of rainwater, intercept and manage stormwater runoff, and create more aesthetically pleasing parking lots. Section 12 applies to parking lots containing 20 or more spaces. These parking lots will be required to contain landscaped open spaces that are at least equal in size to 10% of the total paved area of the parking. Most of this required landscaped open space will take the form of

landscaped islands. Such islands will be required at the ends of each parking aisle. Intermediate islands will also be required in long rows of spaces so that no more than 15 parking spaces are directly adjacent to one another. Islands are also required as separation between any pedestrian walkways and parking spaces. Section 11 specifies that stormwater infrastructure within parking lots shall be constructed in accordance with the criteria and information, including technical specifications and standards, in the most current version of the Iowa Stormwater Management Manual which is published by the Iowa Department of Natural Resources. These regulations require that a solid 6-foot wall be placed along the perimeter of a parking lot wherever it is directly adjacent to a residentially zoned parcel. Section 12 also requires the establishment of a landscaped buffer yard between a parking lot and any public street, and that one tree and six shrubs shall be planted in the landscaped buffer per 25 linear feet of street frontage.

Section 13 contains standards for trees and shrubs required by this chapter. It details the required size of plantings both at the time they are planted and maturity. This section mandates that any required tree or shrub be maintained and replaced in a timely manner if it dies off. Further this section requires that any tree planted in a landscaped parking lot island or in landscaped buffer yard, in order to fulfill requirements of City Code, be an approved species. A list of approved tree species is maintained by the Parks and Recreation Department.

Section 14 contains regulations regarding parking for bicycles. The regulations, for the first time, require providing of bike parking facilities. The number of bike parking racks will be determined by the number of vehicular parking spaces required. These regulations also cover the location, layout, and design of bike parking facilities.

Chapter 10-28: Sight Triangle Regulations

This chapter covers sight triangle regulations. The majority of these regulations remain unchanged from what is contained in the previous Zoning Ordinance. However, there are two major changes, one relating to how sight triangles are measured, and a change to the required vertical clear zone. These regulations have also been reformatted, illustrated, and placed in their own chapter in order to make them more user-friendly.

Current regulations did not specify where exactly the required 30 feet from an intersection, that comprise a sight triangle, should be measured from and this has caused confusion. The revised regulations specify that this is to be measured from the curb or edge of the pavement.

Regulations relating to the vertical clear zone, the area within a sight triangle that must be kept clear of any obstructions, have been updated. Previously nothing higher than 3 feet is allowed within a sight triangle. The revised regulations prohibit obstructions between 3 and 7 feet.

Chapter 10-29: Keeping of Animals in Residential Districts

The previous Zoning Ordinance spread regulations covering animals in residential districts across a number of chapters. The revised Zoning Ordinance places all these regulations in single chapter.

The biggest difference between the previous Zoning Ordinance and the new zoning ordinance is how the keeping of farm animals of 30 pounds in size animals on residentially zoned parcels between two and twenty acres would be regulated. The previous zoning ordinance does not contain clear and direct language regulating the keeping of farm animals of 30 pounds in size on residentially zoned parcels between two and twenty acres in size. The revised zoning ordinance fixed this by adding clear and easily understandable regulations regarding these situations.

The revised regulations define and regulate animals based on following four categories of animals.

- **Domestic Companion Animal:** A domestic animal customarily kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food or fur. Typically, this includes dogs, cats, birds and other small mammals and reptiles, but not fowl, herd animals, goats, horses, other farm type animals, or types of animals prohibited elsewhere in City Code.
- **Small Farm Type Animal:** Small-sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, or normally used for purposes related to agricultural production. Includes, but not limited to, chickens, guinea hens, geese, ducks, turkeys, pigeons, mink, and other animals or fowl of similar size and type, whose mature weight is less than 30 pounds. Young or miniature large animals are not included in this definition and are considered large animals. The category does not include domestic companion animals.
- **Medium Farm Type Animal:** Medium-sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, or normally used for purposes related to agricultural production. Includes, but not limited to sheep, goats, or similar medium-sized animals whose mature weight is between 30 and 500 pounds. Does not include domestic companion animals.
- **Large Farm Type Animal:** Includes, but not limited to, horses, donkeys, mules, llamas, bovines, bison, camels, ostriches, emu, and other animals or livestock of similar size and type, whose mature weight exceeds 500 pounds.

Where and how many of these types of animals that are allowed to be kept in a residentially zoning district is dependent on the size of the subject parcels. For parcels less than two acres in size only the keeping of domestic companion animals of a type and in a manner that is in compliance with all relevant sections of City Code is allowed. The keeping of swine, roosters, peacocks, turkey gobblers or guinea fowl is prohibited on all parcels of less than 20 acres. For parcels between two and twenty acres animals would be permitted at the following number and density:

- **Domestic Companion Animal:** Permitted in accordance with all other relevant sections of City Code.
- **Small farm type animals:** Maximum of four small farm type animals per acre.
- **Medium farm type animals:** Maximum of two medium farm type animals per acre.
- **Large farm type animals:** Maximum of one large farm type animal per acre.

The proposed regulations also cover accessory buildings relating to the keeping of farm type animals. The key components of how these types of accessory structures are regulated are:

- All pens, stalls, quarters, or any other structure related to the keeping of animals as well as any grazing areas shall be maintained in a sanitary manner free from noxious odor.
- Any accessory structure associated with the keeping of less than 60 small, 20 medium, or less than 10 large type farm animals, other than swine, shall be set back 60 feet from the nearest parcel line.
- Any accessory structure associated with the keeping of 60 or more small type farm animals, 20 or more medium type farm animals, or 10 or more large type farm animals, or any number of swine shall maintain a 200 feet setback from the nearest parcel line.

The previous Zoning Ordinance does not address beekeeping at all. For this reason, the revised chapter contains regulations on beekeeping that are based on a survey of best practices in other communities.

Chapter 10-30: Wireless Technology Siting Ordinance

There are significant changes to how wireless technology siting (cell towers) is regulated. The four most significant areas of changes are: those needed to comply with recent federal and state mandates; creating a simpler and more consistent height limit across all zoning districts; the methods by which collocation of multiple carriers on a single tower is encouraged; and the addition of screening and landscaping standards.

This chapter regulating wireless communication facilities brings City Code into compliance with federal and state regulations.

This chapter includes a significant change in the way the maximum height of communication towers is regulated. Previously anyone proposing a tower that exceeds the maximum height of the zoning district must obtain permission from City Council per Section 10-20-1(B) of City Code. Aside from the C-2 District no zoning district has a maximum height limit of 75', nearly all new communication towers are taller than 75'. Except for the two industrial zoning districts the construction a communication tower requires a conditional use permit. This meant that a proposal for a new communication

tower most likely needed to be approved by both City Council and the Zoning Board of Adjustment.

In order to better ensure compliance with state mandated timeline of acting on an application for a new tower within 150 days, and to streamline the process, the revised regulations allow communication towers to be constructed up to 150' in height with an approved conditional use permit, without additional City Council authorization. Towers taller than 150' would still require separate Council approval. Nearly all existing communication towers within the City of Muscatine are between 75' and 150' height.

In accordance with state law the chapter does not mandate collocation, rather it encourages it by mandating towers constructed over 75' in height be designed to accommodate collocation, and the chapter streamlines the process for approving the taller type of towers needed to accommodate collocation of multiple wireless communication on the same tower. The chapter adds landscaping and screening requirements for support facilities and tower bases.